

**CORPORATE LAW REVAMPED: HOW MINDFULNESS CAN REJUVENATE THE  
TRANSACTIONAL LAWYER**

*Recapturing the spark that once fueled your fire.*

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♦ Second year law student at the University of Miami School of Law. I would like to thank Professor Scott Rogers for introducing me to Mindfulness and devoting part of his valuable time to helping me foster my own practice. I would also like to thank Sharon Salzberg, Steve Zuckerman, Paul Singerman, and Harley Tropin for taking time out of their busy schedules to share with our class.

## I. INTRODUCTION

Please take a moment and think of a relationship you have. Whether the relationship is personal or professional, with someone or even with something. Perhaps you are thinking about your spouse, your parents, a sport, a hobby, or maybe a career. Really try to ponder this relationship. Consider the ups and downs, the good and the bad. How did this relationship come to be? What draws you to the person or object opposite yourself in the relationship?

I find that the phases of relationships can be analogized to the phases of a fire. The four phases can be chronologically organized as follows: (1) The Spark; (2) The Fuel; (3) The Fire; and (4) The Dwindling Down. *The Spark* is that eye catching moment, the draw, "love at first sight," inspiration, goals. *The Fuel* is what keeps the relationship going. The excitement of what is next. The firsts. The first date, the first motion, the first deal or negotiation, the first win. *The Fire* is the why. In my case, the intellectual stimulation and high stakes nature of transactional law. *The Dwindling Down* is when the roaring flames start dying down. The feelings of dullness, boredom, and repetitiveness start to emerge.

Now please take another moment and try to analogize these phases to the relationship you were previously pondering. Perhaps you can identify moments where you experienced all of these phases or maybe only some of these phases. Maybe the story in your head sounded similar to the following:

The first moment you lock eyes. The first date. The first time you hold hands. The first kiss. The initial excitement of a relationship is unmatched. The person we are attracted to commands our attention. We are so intrigued by our soul-mate that we want

to know more and more about them. This fascination and excitement can serve as the “spark” that ignites a long, beautiful relationship.

However, sometimes this “spark” begins to fade. Seemingly out of nowhere, the initial fascination and excitement is extinguished. Those nostalgic “firsts” become nothing but events of the past. We question if the feelings we had in those moments were genuine or a façade created by the excitement of a new relationship. Today, couples, businesspeople, lawyers, students and others often seek an answer to the following question: “How do we keep that initial passion, which drew us here, alive?” I believe that question can be expounded as, “How do we retain that which had us excited in the first place?”

Many are drawn to the practice of law because of the intellectual stimulation and high-stakes competitive nature of the field. Specifically, in the corporate law realm, young minds are drawn to the lucrative clientele and analytical challenges of the practice. However, as in many relationships, that initial fascination and excitement begins to fade. The day-to-day hustle begins to swallow the true purpose and passion for why we chose our particular career path. We no longer are excited to practice corporate law. Our thoughts turn mundane: This is so boring! Why did I want to be a corporate attorney again? The question persists: How do we appreciate that which had us excited in the first place and become comfortable with our lives failing to meet unrealistic expectations?

## II. OVERVIEW

This paper responds to the challenge of rejuvenating the typical corporate attorney. That is, how can we recapture the spark that once fueled our fire? I believe the practice of mindfulness, through an awareness of the present, offers an insightful

opportunity for law students and attorneys to rejuvenate those initial feelings of fascination and excitement that drew them to the practice of law. By taming the “voice in our head”<sup>1</sup> and garnering a greater awareness for the present, the “mindful” attorney or student may find an improvement in their attitude, a reduction in their stress, boredom, and procrastination, as well as an awareness for the complexity of their work. In particular, this paper will focus on how the daily, seemingly mundane tasks of a corporate lawyer often distract these individuals from what drew them to the practice—intellectual stimulation, analytical challenge, and a high-stakes environment.

Part I of this paper will explore mindfulness through a discussion of the history and the place and status of mindfulness in the world today. The reader will understand that mindfulness is a practice of cultivating awareness. In Part II of this paper, medical studies and scientific reports will point to some of the benefits of mindfulness practice. Additionally, a personal account of my own practice will help bolster the scientific findings. In Part III, I will explain how to practice mindfulness by offering a description of a basic sitting technique, as well as ways to practice while working. In Part IV, the paper will address how mindfulness can help the corporate attorney capture happiness. Specifically, this section will discuss falling victim to the dullness of transactional work. Finally, this section will discuss cultivating both an awareness of our initial excitement for corporate law, as well as an appreciation for the complexity of transactional law.

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<sup>1</sup> DAN HARRIS, 10% HAPPIER: HOW I TAMED THE VOICE IN MY HEAD, REDUCED STRESS WITHOUT LOSING MY EDGE, AND FOUND SELF-HELP THAT ACTUALLY WORKS 211 (itbooks eds., 1st ed. 2014).

### III. WHAT IS MINDFULNESS?

The concept of mindfulness can take many forms and is often defined differently by different individuals. Jon Kabat-Zinn<sup>2</sup> offers one such definition I find particularly insightful in his work *Mindfulness for Beginners*.<sup>3</sup> He writes, “Mindfulness is awareness, cultivated by paying attention in a sustained and particular way: on purpose, in the present moment, and non-judgmentally.”<sup>4</sup> Similarly, Leonard L. Riskin<sup>5</sup> uses the term mindfulness to mean, “being aware, moment to moment, without judgment, of one’s bodily sensations, thoughts, emotions, and consciousness.”<sup>6</sup> Moreover, mindfulness can also be understood as “a practice of paying attention to present-moment experience in a manner that is engaged and unassuming. ‘Engaged’ means attentive, interested and observant, and ‘unassuming’ means being without judgment—open and receptive to what arises in the field of awareness.”<sup>7</sup> Although these definitions provide subtle nuances, common words and phrases appear to emerge, which I believe capture what mindfulness is at its heart: “open,” “awareness,” “without judgment,” and “present moment,” to list a few.

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<sup>2</sup> Jon Kabat-Zinn, PhD, “is the developer of Mindfulness-Based Stress Reduction (MBSR), used today in medical centers, hospitals, and clinics around the world.”

<sup>3</sup> JON KABAT-ZINN, *MINDFULNESS FOR BEGINNERS* (2012).

<sup>4</sup> *Id.* at 1.

<sup>5</sup> Director of the Initiative on Mindfulness in Law and Dispute Resolution at the University of Levin College of Law

<sup>6</sup> Leonard Riskin, *Knowing Yourself: Mindfulness in The Negotiator’s Fieldbook* (Christopher Honeyman & Andrea K. Schneider, eds.) ABA, 239, 241 (2006).

<sup>7</sup> Scott L. Rogers, *What Do We Want? Mindfulness in Law!*, 62 LA. B.J. 268, 269 (2015) (referencing Scott L. Rogers, “Mindfulness Across the Curriculum: Infusing and Integrating Mindfulness into the Law School Classroom,” 36 U. Ark. Little Rock L. Rev. (forthcoming 2014)).

Rhonda V. Magee<sup>8</sup>, identifies mindfulness as “the most widely-adopted and certainly [...] the most widely studied to date” of the various forms of the “contemplative practices.”<sup>9</sup> Mindfulness has become the subject of substantial neuroscience and psychology research and has been incorporated into several religious and philosophical traditions, particularly of Eastern origin.<sup>10</sup> Although many interested in mindfulness are attracted to practice via the religious and philosophical traditions, the vast scientific data studying the mental health benefits of mindfulness has led to a growing secular adoption of the practice.<sup>11</sup>

A major facet of mindfulness is meditation. However, meditation is not only the preconceived notion of sitting alone in the lotus position chanting “Namaste.” Kabat-Zinn, in fact, portrays meditation as “any way in which we engage in (1) systematically regulating our attention and energy (2) thereby influencing and possibly transforming the quality of our experience (3) in the service of realizing the full range of our humanity and of (4) our relationships to others and the world.”<sup>12</sup> Therefore, when you “choose to direct your awareness to an object, and sustain your attention on the object, you are practicing mindfulness”<sup>13</sup> and accordingly, you are also meditating under the definition proffered by Kabat-Zinn.

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<sup>8</sup> Professor of Law, University of San Francisco. J.D., M.A., University of Virginia.

<sup>9</sup> Rhonda V. Magee, *Educating Lawyers to Meditate?*, 79 UMKC L. REV. 535, 540 (2011). Contemplative practices reference “any of a wide variety of practices, with origins ranging from ancient to post-modern, from deeply religious to wholly secular, that assist people in becoming more aware of thoughts, emotions, and physical states, and assist people in being more deeply present and capable of choosing their responses to stimuli in their environments.” *Id.* at 539 (internal citations omitted).

<sup>10</sup> *Id.* at 540.

<sup>11</sup> *Id.* at 541–542.

<sup>12</sup> KABAT-ZINN, MINDFULNESS FOR BEGINNERS, *supra* note 3, at 1.

<sup>13</sup> SCOTT ROGERS, *Mindfulness for Law Students* 8 (MLP 2009).

Further, the word mindfulness may seem to be a bit of misnomer. Mind-FULL-ness. The idea of having a “full” mind it seemingly at odds “with the idea of an open, expansive awareness, which is really the essence of the state we currently call ‘mindfulness.’”<sup>14</sup> The following “teacup story” provides perspective:

Once, a long time ago, there was a wise Zen master. People from far and near would seek his counsel and ask for his wisdom. Many would come and ask him to teach them, enlighten them in the way of Zen. He seldom turned any away.

One day an important man, a man used to command and obedience came to visit the master. “I have come today to ask you to teach me about Zen. Open my mind to enlightenment.” The tone of the important man’s voice was one used to getting his own way.

The Zen master smiled and said that they should discuss the matter over a cup of tea. When the tea was served the master poured his visitor a cup. He poured and he poured and the tea rose to the rim and began to spill over the table and finally onto the robes of the wealthy man. Finally the visitor shouted, “Enough. You are spilling the tea all over. Can’t you see the cup is full?”

The master stopped pouring and smiled at his guest. “You are like this tea cup, so full that nothing more can be added. Come back to me when the cup is empty. Come back to me with an empty mind.”<sup>15</sup>

This story serves to illustrate the concept of “Beginner’s Mind.”<sup>16</sup> As Kabat-Zinn explains, “Beginners come to new experiences not knowing so much and therefore open.”<sup>17</sup> I believe the idea of “Beginner’s Mind” can be helpful in understanding mindfulness, especially in the context of a transactional attorney looking to recapture the intellectual stimulation and high stakes nature of their work that first drew them to the complex area of law. As the attorney practices the law more and more, they begin to

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<sup>14</sup> Tim Lomas, *Where Does the Word ‘Mindfulness’ Come From?*, HUFFINGTON POST: HUFFPOST HEALTHY LIVING, [http://www.huffingtonpost.com/tim-lomas/where-does-the-word-mindfulness-come-from\\_b\\_9470546.html](http://www.huffingtonpost.com/tim-lomas/where-does-the-word-mindfulness-come-from_b_9470546.html). (last updated Mar. 16, 2016).

<sup>15</sup> Bengt Wendel, *Your teacup is full (Empty your cup)*, <http://bengtwendel.com/your-teacup-is-full-empty-your-cup/>. (July 22, 2009).

<sup>16</sup> KABAT-ZINN, MINDFULNESS FOR BEGINNERS, *supra* note 3, at 9–10.

<sup>17</sup> *Id.* at 9.

operate without awareness, in “auto-pilot.” Fortunately, mindfulness can help the attorney “remember from time to time that each moment is fresh and new.”<sup>18</sup>

Mindfulness can be traced back to the word “sati” of the ancient Indian language Pali, of which many ancient Buddhist texts were written in.<sup>19</sup> While these ancient origins help cement mindfulness’s place in history, the presence of mindfulness in today’s world is widespread.<sup>20</sup> David Gelles, in a piece for the New York Times, documents the popularity of practicing mindfulness and warns of the dangers of the mainstream acceptance of mindfulness.<sup>21</sup> Gelles cautions that mindfulness is being packaged as a one-minute reprieve, an interlude between checking Instagram and starting the next episode of ‘House of Cards.’<sup>22</sup> I channel Gelles’ advice and return to mindfulness’s historical roots for guidance. That is, “mindfulness is just one aspect of a lifelong journey to become more accepting, less judgmental and kinder to oneself and others. Even in its modern incarnation, mindfulness is best understood as a skill, one acquired through hours of sometimes uncomfortable contemplation.”<sup>23</sup>

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<sup>18</sup> *Id.* at 9–10

<sup>19</sup> Wendel, *supra* note 15.

<sup>20</sup> David Gelles, *The Hidden Price of Mindfulness Inc.*, THE NEW YORK TIMES: SUNDAYREVIEW, [http://www.nytimes.com/2016/03/20/opinion/sunday/the-hidden-price-of-mindfulness-inc.html?\\_r=0](http://www.nytimes.com/2016/03/20/opinion/sunday/the-hidden-price-of-mindfulness-inc.html?_r=0). (Mar. 19, 2016).

<sup>21</sup> *Id.* (noting, “There are more than two dozen mindfulness apps for smartphones, some offering \$400 lifetime subscriptions. The Great Courses has two mindfulness packages, each with a couple of dozen DVDs for \$250.”).

<sup>22</sup> *Id.*

<sup>23</sup> *Id.* See also Scott Rogers, *Mindfulness in Law and the Importance of Practice*, 90 Fla. B. J., no. 4, Apr. 2016, at 11 (Proffering five stages experienced by many in the legal profession who have established a mindfulness practice. The five stages are ignorance, confusion, familiarity, embrace, and practice.).



#### IV. WHY PRACTICE?

This section of the paper includes a discussion of several scientific and medical studies documenting the benefits of practicing mindfulness. Also, this section includes a brief account of my background and interest in practicing transactional law and a short recitation of the benefits I have seen from my own mindfulness practice. Later, the paper will describe my mindfulness practice and the ways I incorporate mindfulness into my daily life.<sup>24</sup>

##### A. *The Science Behind Mindfulness*

Scientific studies reveal that mindfulness practices are associated with a decrease in stress and anxiety in college undergraduates, cancer patients, health care professionals and a more general population of adults, as well as decreases in depression, exhaustion, sadness and negative feelings about the self.<sup>25</sup> One scientific application of mindfulness that we can all relate to is known as Mindfulness-Based Stress Reduction (“MBSR”). MBSR is associated with the reduction of negative behaviors and mental states such as neuroticism, absent-mindedness, rumination, difficulty regulating emotions, cognitive reactivity, social anxiety, avoiding experiences, inability to identify or explain one’s own emotions (alexithymia), and the intensity of psychotic delusions.<sup>26</sup> Further, in the clinical realm, newer programs such as Mindfulness-Based Cognitive Therapy (“MBCT”) teach patients to view their symptoms as experiences rather than harsh facts.<sup>27</sup> Another

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<sup>24</sup> See Section V *infra*.

<sup>25</sup> Nehal A. Patel, *Why Lawyers Fear Love: Mohandas Gandhi’s Significance to the Mindfulness in Law Movement*, 4 BRIT. J. AM. LEGAL STUD. 251, 256–58 (2015) (internal citations omitted).

<sup>26</sup> *Id.* at 257–58

<sup>27</sup> *Id.* at 258 (noting, “MBCT has been shown to decrease the rate of relapse in depression patients, decrease number of symptoms of depression, increase the amount of time

technique evidencing the benefits of mindfulness training is called Dialectical Behavior Therapy (“DBT”), which is often used with patients suffering from Borderline Personality Disorder or dealing with suicidal thoughts and feelings.<sup>28</sup> Lastly, mindfulness has been incorporated into Acceptance and Commitment Therapy (“ACT”), which helps “people constructively accept negative emotions rather than avoiding and rejecting them.”<sup>29</sup>

While the aforementioned evidences a great deal on how mindfulness helps those battling certain mental conditions and exhibits the clinical realms of mindfulness practice, you may be wondering: How does mindfulness help “me,” a leader or player in today’s cutthroat, high stakes business and legal world? The answer is simple: Mindfulness changes your brain in ways that can make you a more effective and resilient attorney.<sup>30</sup> One of the several regions of the brain affected by practicing mindfulness is the anterior cingulate cortex (“ACC”).<sup>31</sup> The ACC is associated with one’s ability to purposefully direct attention and behavior, quash rash responses, and maintain strategic flexibility, all skills keen to functioning at a high level in the corporate law arena.<sup>32</sup> Research shows that those who meditate have more brain activity in the ACC leading to better self-regulation, resistance of distractions, and optimal decision-making supported from past experiences,

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between relapses, reduce social phobias, and lessen increases in anxiety among bipolar patients.”).

<sup>28</sup> *Id.* at 258–59 (explaining that “mindfulness training has significantly reduced anger, aggression, drug use, self-harm, depression, suicidal behavior, and inpatient treatment.”).

<sup>29</sup> *Id.* at 259–60 (highlighting that ACT has significantly reduced depression, dysfunctional attitudes, hospitalization rates, math and test anxiety, nicotine addiction and cigarette use, and opiate use.”).

<sup>30</sup> Christina Congleton, Britta K. Hölzel, & Sara W. Lazar, *Mindfulness Can Literally Change Your Brain*, HARVARD BUSINESS REVIEW (Jan. 8, 2015) available at <https://hbr.org/2015/01/mindfulness-can-literally-change-your-brain>.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

as compared to those who do not meditate.<sup>33</sup> Another region of brain changed by mindfulness, is the hippocampus, which speaks to the ever-important skill of resilience.<sup>34</sup> Corporate attorneys have to deal with the stresses of failing to close a deal or getting burned by a strategically placed contract provision. Research demonstrated that participants in a mindfulness program had increased gray matter in the hippocampus, while those dealing with stress-related disorders tended to have a smaller hippocampus.<sup>35</sup>

### *B. Personal Observations*

Growing up, I watched my father start and grow several businesses from the ground up. At a young age, I became intrigued with the complexities of starting and running a business, particularly what went on behind the scenes, the financials and the contracts. Perhaps motivated by a detective-like desire to learn, I decided to major in business as an undergrad. Not satisfied with the general business curriculum, I narrowed my major to accounting, which I like to label the language of business. Still wanting to understand the legalities behind business and accounting, I presently attend law school where I am planning to pursue an LLM in taxation.

Throughout the pursuit of these complex degrees, I found myself stressed, mentally drained, and hostile. I could not help but worry and stress over an impending test or assignment. I could not help but be snappy and rude to the people I loved the most. I could not help but use the small amount of free time I had to stare at the television screen. Like many competitive transactional attorneys, I justified my behavior as that which gave me my edge. I always performed well in school and concluded that the

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<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

constant stress is what made me stay on top of my work. The feelings of mental drain and hostile/bitter attitude were just collateral damage on the road to success. I lived liked this for years, constantly ignoring concerns from loved ones.

I eventually learned about mindfulness and enrolled in Professor Scott Rogers<sup>36</sup> course, *Mindfulness in Law*, at the University of Miami School of Law. After practicing mindfulness for roughly three months, changes in my personality, sleep patterns, and stamina are readily apparent to both others and myself. While mindfulness is not a practice of reducing stress directly, its goal of fostering an awareness for the present helps to reduce stress in my case. Notice how I said reduce and not eliminate. Of course I am still stressed, however, the level or intensity has been substantially reduced.

I used to dread impending assignments and exams. For instance, weeks before an exam, I would start beating myself up about how I was underprepared; how I was destined to fail; how I was ruining everything I had previously worked so hard for. Mindfulness helps me alter this line of thinking in two ways. First, mindfulness helps me avoid dreading future events and circumstances outside of my control and instead focus on the present. Instead of dreading the impending test, I simply<sup>37</sup> try to notice these thoughts and focus on my present actions, that which I am doing now that is helping me prepare for the future event. Second, mindfulness helps me avoid sweating past events and actions that are unchangeable and instead be better situated to learn from them. Again by fostering a present-focus, we simply notice feelings and thoughts of present mistakes/failures and move on. We return to the present.

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<sup>36</sup> Founder and director of the Institute for Mindfulness studies.

<sup>37</sup> While the task (noticing feelings, thoughts, and sensations) seems simple, it is actually very challenging. It takes time and practice. Stick with it and notice the feelings, thoughts, and sensations that arise as you practice.

I believe this present-focus is fundamental to professional success, especially in the high stakes world of corporate law. With the intricacies and complexities that riddle the practice of transactional law, costly mistakes are inevitable. In my opinion, the attorney who can appreciate this mistake, notice it, and move on to the present matters at hand, will find greater happiness and productivity at work and at home than the attorney who allows these past failures to eat at him or her.

#### V. HOW DO YOU PRACTICE?

The say practice makes perfect. In the context of mindfulness, I would say practice makes mindfulness more meaningful.<sup>38</sup> This section will briefly discuss the challenges of practicing mindfulness, the basic technique, and simple ways busy attorneys can practice, even while at work.

##### A. *Basic Practice*

It is important to recognize that everyone is unique and thus, may find subtle difference in their own practice to be more helpful. Mindfulness practice may develop progressively as we lay we each step, going deeper and deeper into the practice.<sup>39</sup> Furthermore, one may find it beneficial to practice in a group and alone, as frequently

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<sup>38</sup> See MATT TENNEY & TIM GARD, *THE MINDFULNESS EDGE: HOW TO REWIRE YOUR BRAIN FOR LEADERSHIP AND PERSONAL EXCELLENCE WITHOUT ADDING TO YOUR SCHEDULE* 19 (Jon Wiley & Sons, Inc. ed. 2016) (Comparing the practice of mindfulness to running: Many of us practice mindfulness and run when life necessitates it. For instance, trying to catch the train before the doors close, or a brief noticing of our thoughts. However, when we run or practice mindfulness for a period of time several times a week, the results and experience become far more meaningful.)

<sup>39</sup> See Leonard Riskin, *Knowing Yourself: Mindfulness in The Negotiator's Fieldbook* (Christopher Honeyman & Andrea K. Schneider, eds.,) ABA, 239, 242 (2006) (“We cultivate mindfulness through a progression of meditative practices. The most basic of these practices is concentration on the breath. From there we move to bodily sensations, thoughts, emotions, and finally to choiceless awareness or bare attention, a non-judgmental awareness of whatever arises through any of the sense organs or the mind.”).

changing the practice setting and techniques allow for new feelings, thoughts, and sensations to arise creating more opportunities to practice.<sup>40</sup>

The follow is an example of a simple sitting and awareness of breath practice:

- 1) Bring yourself into a posture that is upright and stable.
- 2) Lower or close your eyes.
- 3) Bring your attention to your breathing.
- 4) Rest your attention on the flow of the breath, noting the sensations of the body breathing.
- 5) When you notice your mind wandering, bring your attention back to the breath.<sup>41</sup>

Personally, the most challenging aspect of the first few sitting practices is frustration or desire for perfection. I point out this particular challenge because I feel it is shared among competitive lawyers, especially corporate attorneys. I found myself constantly angered by my inability to quiet the voice in my head or the insatiable desire to open my eyes.

However, this frustration is part of the practice and over time we learn to take a breath

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<sup>40</sup> *Id.*

<sup>41</sup> Rogers, *Mindfulness in Law*, *supra* note 23, at 14 (citing Scott L. Rogers, *What Do We Want? Mindfulness in Law!*, 62 LA. B.J. 268 (2015)); *See also* Mindful Staff, *How to Do It*, MINDFUL, <http://www.mindful.org/mindfulness-how-to-do-it/>. (Sep. 9, 2014) (“Take good posture in a chair or on some kind of cushion on the floor. It could be a blanket and a pillow, although there are many good cushions available that will last you a lifetime of practice. You may sit in a chair with your feet on the floor, loosely cross-legged, in lotus posture, kneeling—all are fine. Just make sure you are stable and erect. If the constraints of your body prevent you from sitting erect, find a position you can stay in for a while. When your posture is established, [lowering or closing your eyes,] feel your breath—or some say “follow” it—as it goes out and as it goes in. (Some versions of the practice put more emphasis on the outbreath, and for the inbreath you simply leave a spacious pause.) Inevitably, your attention will leave the breath and wander to other places. When you get around to noticing this—in a few seconds, a minute, five minutes—return your attention to the breath. Don’t bother judging yourself or obsessing over the content of the thoughts. Come back. You go away, you come back. That’s the practice. It’s often been said that it’s very simple, but it’s not necessarily easy. The work is to just keep doing it. Results will accrue.”)

and notice these feelings for what they are, feelings, and quickly move on to other thoughts, feelings, and sensations without dwelling on them.

### B. *At Work*

With the growing mainstream adoption of mindfulness, many well known companies have implemented mindfulness programs.<sup>42</sup> Unfortunately, everyone does not have the opportunity to work for such companies. There are several practical, short and easy mindfulness practices busy attorneys can use everyday to cultivate an awareness of the complexity of their work and the feelings, thoughts and sensations promulgated from such high-level lawyering. The following section<sup>43</sup> will discuss specifically how these practices relate to the busy attorney and how work can even be considered a spiritual practice.

The first is known as “The Spiral.”<sup>44</sup> Simply, draw a circle, and label Thoughts, Feelings, Sensations, and (Over-) Reactions on the circle. The Spiral helps us notice thoughts, feelings, and sensations as they arise from a triggering event. For instances, a valuable client and friend might your firm. This might trigger thoughts (How could she?), feelings (sadness, anger), sensations (clenching of fists, sweaty palms) and perhaps reactions and over-reactions (cursing, slamming doors). By actively documenting these moments, we are training are mindfulness muscles. Over time, we are better able to notice these moments, and appreciate them for what they are, mere thoughts, feelings,

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<sup>42</sup> Drew Hanson, *A Guide To Mindfulness at Work*, FORBES, <http://www.forbes.com/sites/drewhansen/2012/10/31/a-guide-to-mindfulness-at-work/#7bb9e5106870>. (Oct. 31, 2012) (listing Apple, Google, McKinsey & Company, Deutsche Bank, Procter & Gamble, Astra Zeneca, General Mills, and Aetna).

<sup>43</sup> See Section VI *infra*.

<sup>44</sup> See ROGERS, MINDFULNESS FOR LAW STUDENTS, *supra* note 13, at 31 for an illustration of “The Spiral.”

and sensations. Developing this awareness, we can simply notice and move on without dwelling on the moments, leading to less and less over-reactions.

Two other practices make use of catchy acronyms making them almost as easy to remember, as they are to use everyday. The first is S.T.E.P., an acronym for: Stop. Take a breath. Enter. Proceed. This practice is used before entering or exiting a door. Before entering or exiting the door, you stop and take a breath, aware of you we are about to do, not merely entering the room, perhaps your office, but also beginning or ending a day of complex lawyering serving important clients. Next, with an intention and awareness of doing so, take a deliberate step and finally, proceed with your day, maintaining an open mind. The second is S.T.O.P., an acronym for: Stop. Take a breath. Observe. Proceed. This is an adaptation of S.T.E.P. that can be used basically anywhere. While driving to work, a STOP sign might serve as the perfect cue. When approaching the stop sign, stop, take a breath, and observe. With an open mind, notice things as they arise. Maybe you notice the feel of the brake pedal against your foot, the nature surrounding you, a feeling in your stomach because of a challenging day ahead. Appreciate what you notice and proceed.

## VI. MAKING MINDFULNESS WORK

Only with the enhanced awareness of when I am not in the present can I make an effort to return to the present—the only place I can make a difference and the place that contains all the data—free for the observation of it—that allows me to be more knowledgeable and powerful in advancing my mission.<sup>45</sup>

Many highly competitive and hard-working attorneys pride themselves on their “tough guy/gal” image. Paul Singerman offers that “knowledge is power” and that “knowledge is

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<sup>45</sup> Paul Steven Singerman, Berger Singerman LLP, *The Return on Investment from My Study and Practice of Mindfulness* 90 Fla. B. J., no. 4, Apr. 2016, at 26.



derived from data.”<sup>46</sup> By focusing on the present we can make ourselves “better at collecting and observing data.”<sup>47</sup> This section of the paper discusses how mindfulness helps tackle falling victim to the seeming dullness of transactional work and how mindfulness fosters an awareness of our initial excitement with corporate law and cultivates an appreciation for the complexity of our work.

#### *A. Falling Victim*

Falling victim is the surrendering feeling we experience when we just say: “I cannot do this anymore!” The monotony of our work, the stress, and the feeling of tiredness compound on one another and we simply give in. We become distracted, and we start wondering why we embarked on this career path in the first place. This section discusses how particular mindfulness techniques can help alleviate this feeling.

Falling victim happens to everybody, but can have an even more powerful effect on the young corporate/transactional attorney working his or her way through the daily grind of the practice of law. After drafting and redrafting the same contract provision over and over again, the work feels mundane and routine. “The Spiral” starts to form. Feelings of boredom, thoughts of doubts about your career choice, and sensations of tension in the neck start to fill our mind. I believe these moments reach their apex around the middle of the day. Aside from the aforementioned practices,<sup>48</sup> a practice known as the “DND,”<sup>49</sup> used by Harley Tropin<sup>50</sup> is especially useful at this point of the day. Taking the

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<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> *See* Section V *supra*.

<sup>49</sup> DND stands for Do Not Disturb. Harley Tropin writes the acronym on a sticky piece of a paper and place it on his door, signaling to others in his office to not disturb him during his practice. *See* Harley Tropin, *Meditation and Controlling the Inner Mingo* DCBA BULLETIN (April 2012).

time to refresh ourselves helps “the mind become calm and clear,” returning the mind “to its default, and that default is happiness.”<sup>51</sup> It is in this default state that you can more clearly realize, “I love what I do. I don’t love it every day.”<sup>52</sup> Embracing this awareness, you can better appreciate “enjoying the satisfaction your clients get from your work.”<sup>53</sup>

I am by no means suggestion the process is an easy one. Often the process of overcoming this feeling of “falling victim” is made more challenging by the compounding factors of boredom and procrastination. Sharon Salzberg<sup>54</sup> addresses how mindfulness can help us deal with these factors in her book *Real Happiness at Work: Meditations for Accomplishment, Achievement, and Peace*.<sup>55</sup> In the transactional law world in particular, boredom may “arise from disengagement regardless of the cause.”<sup>56</sup> This feeling of boredom may be spawned from a “difficulty in finding *meaning* in the work we do” or an “absence of *variety* in our daily tasks.”<sup>57</sup> Salzberg suggests a mindfulness practice to help tackle these issues, one that I personally practice every single day, mindful walking.<sup>58</sup> In these moments of abysmal boredom, taking a five to ten minute walk, outdoors if possible, is a great way “to relax your weary mind.”<sup>59</sup> This

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<sup>50</sup> Senior Partner, Kozyak, Tropin & Throckmorton.

<sup>51</sup> CHADE-MENG TAN, *SEARCH INSIDE YOURSELF: THE UNEXPECTED PATH TO ACHIEVING SUCCESS, HAPPINESS (AND WORLD PEACE)* 32 (Harper Collins eds., 2012).

<sup>52</sup> Brian Tannebaum, *The Practice: Fun and Happiness in the Practice of Law*, ABOVE THE LAW (Mar. 18, 2013).

<sup>53</sup> *Id.*

<sup>54</sup> *New York Times* Bestselling Author of *Real Happiness*

<sup>55</sup> SHARON SALZBERG, *REAL HAPPINESS AT WORK: MEDITATIONS FOR ACCOMPLISHMENT, ACHIEVEMENT, AND PEACE* 43 (Workman Publishing eds. 2013).

<sup>56</sup> *Id.* at 52.

<sup>57</sup> *Id.*

<sup>58</sup> *Id.* at 54; see, e.g., Adam Brady, *Mindful Walking Practice: How to Get Started*, THE CHOPRA CENTER, <http://www.chopra.com/ccl/mindful-walking-practice-how-to-get-started> (last visited Apr. 2, 2016) for instructions on mindful walking.

<sup>59</sup> SALZBERG, *REAL HAPPINESS AT WORK*, *supra* note 55, at 54.

meditative walk serves as a “skillful means to befriend our overworked minds, instead of persecuting them to distraction, return[ing] use to equanimity and the ability to focus.”<sup>60</sup>

Procrastination is another challenge that plagues corporate attorneys. “We can endlessly anticipate difficulty and failure; uncertainty of outcomes alone is enough to keep us from taking action.”<sup>61</sup> When you notice you are procrastinating I encourage you to try the “TDM”<sup>62</sup> mindfulness practice. In this fifteen-minute practice, you begin by performing a simple task you have to do that day for five minutes, perhaps responding to an email. Once the five minutes is up, you sit in a posture that is upright and stable, for five minutes with a “To-Do List” in front of you. With you eyes lowered or close you allow tasks that you need to do to come to you, not actively seeking them out but open to the thoughts as they emerge. When a task comes to you, you jot it down and return to your posture. After that five-minute segment has expired, you then perform a sitting practice for 5 minutes. You can now prioritize this list and begin “breaking large projects into small, easier to complete steps, [making] them more palatable, focusing our minds on just the next thing, one piece at a time.”<sup>63</sup>

#### *B. Initial Excitement*

“When we believe that the world makes us, that it determines what we can and cannot do, then we see ourselves as small and weak. But when we understand that we

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<sup>60</sup> *Id.*

<sup>61</sup> *Id.* at 55.

<sup>62</sup> TDM is an acronym for To-Do Mindfulness and also is a pronunciation play on the word tedium, suggesting how mindfulness practice can be tedious, yet truly beneficial. See Scott Rogers, *To Do Mindfulness Practice*, YouTube (Jan. 28, 2016), <https://www.youtube.com/watch?v=Kj7F8nwDIj4> for a demonstration.

<sup>63</sup> SALZBERG, REAL HAPPINESS AT WORK, *supra* note 55, at 58.

make the world—individually and together—then we become formidable and strong.”<sup>64</sup>

Unfortunately, the daily pressures of corporate law overshadow and perhaps even consume our “purpose.” I think of “purpose” as our initial excitement with our chosen career paths and the related reasons we decided to pursue that path. For me, transactional law offers a uniquely satisfying feeling similar to solving a 10,000-piece puzzle. The convoluted nature of contract negotiations offers a sense of intellectual stimulation particular to transactional law. In order to foster an awareness for this initial excitement and recapture it as a present excitement, you can develop a deeper practice, that helps bring even greater meaning.<sup>65</sup>

### *C. Complexity and Opportunities*

Work. Work. Work. The hustling transactional attorney seemingly moves robotically from deal to deal, assignment to assignment, task to task. We seldom take time to really appreciate the complexity and opportunities our profession provides for us. Mindfulness, via a gratitude practice, allows us to cultivate an awareness of these complexities and opportunities and to appreciate them. Moreover, it allows us to notice what is most important in life, our health, our families, and our friends.

There are many gratitude practices<sup>66</sup> out there, however, I believe the most important thing is jotting down that which you are grateful for, as it gives us an

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<sup>64</sup> LEWIS RICHMOND, *WORK AS A SPIRITUAL PRACTICE: A PRACTICAL BUDDHIST APPROACH TO INNER GROWTH AND SATISFACTION ON THE JOB* 253 (Broadway Books eds., 1st ed. 1999).

<sup>65</sup> Try developing a spiritual practice. Do not let the word “spiritual” scare you away. The spiritual aspect is simply adopting a “self-mantra”, or chant, that appreciates the work you are doing and why you enjoy it. Say this mantra to your self at the close of a practice and notice the feelings, thoughts, and sensations that arise. *Id.* at 36–38.

<sup>66</sup> See Ann H. Abbrecht, *Establish Mindfulness and Reduce Your Stress: Be Pro Active and Create Balance*, 62 LA. B.J. 272, 273 (2015) (“At the beginning of the week, create a

opportunity to visualize all that we are grateful for. A mindfulness gratitude practice allows us to “awaken to the understanding that each day presents us with new possibilities and unexpected discoveries, [and] increase the influence that these interactions, experiences and situations have on our lives.”<sup>67</sup> In the transactional law world each day provides new challenges, and each day builds and strengthens your skills as an attorney. A gratitude practice allows you to “hold a sense of wonderment, meaning, and appreciation, recognizing”<sup>68</sup> all that you have and the rewarding career path you chose.

## VII. PUTTING IT ALL TOGETHER

Returning to the fire analogy,<sup>69</sup> I find that mindfulness helps us locate some additional *fuel* to feed our inner *fire* and thwart the *dwindling down*. With awareness for the present, we can better notice our thoughts, feelings, and sensations. This improved aptitude of self-awareness allows us to recognize our thoughts, feelings, and sensations for what they are, merely thoughts. We can quickly appreciate them for what they are and return to our exciting and challenging careers. Furthermore, by combining a gratitude practice with your sitting practice, you are able to remind yourself of some of the *spark* moments. You can reflect on what drew you to your career and appreciate the complexity of that which you do as a corporate attorney.

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list of five things for which you are grateful. Do this on the same day, at the same time, each week. At the end of the day, recognize three things that went well. By doing this, you focus on the positive rather than the negative things. This process will serve as a guide toward your kindness and concern for others, thus bringing you closer to those around you and increasing your level of well-being.”).

<sup>67</sup> Theo Koffler, *Gratitude 365*, THE CHOPRA CENTER, <http://www.chopra.com/ccl/gratitude-365> (last visited Mar. 31, 2016).

<sup>68</sup> *Id.*

<sup>69</sup> See Section I *supra*.

Moreover, sometimes it takes something new to *spark a dwindling fire*. Perhaps you can relate to, or at least imagine, being at a campfire that was started with some lighter fluid. The fire has been burning for a while, however, the flames are now starting to dwindle. The bottle of lighter fluid is empty. In order to keep the fire going one must find a new source of fuel. The campers locate some sticks, maybe some old newspapers, add them to the dwindling campfire, and slowly the campfire begins to roar again. The thrill and challenge of finding an alternative fuel source was fun and refreshing. Mindfulness can serve as the sticks or old newspaper. That is to say, the excitement and challenge of adopting this new practice called mindfulness can rejuvenate the burnt out young corporate attorney. The initial frustrations and challenges of adopting a mindfulness practice may reignite some of those competitive juices that drew us to the practice of law in the first place.

#### VIII. CONCLUSION

Like a new diet, a new exercise routine, or a new relationship, there is only one way to see if it works for you: Try it! As parting words, I caution that mindfulness is not an all or nothing practice. As lawyers, or highly motivated individuals, we often strive for perfection and are frustrated when we fail to master a new challenge. Embrace your mindfulness practice and be proud of small improvements as they arise. “If you can create an inner environment where your mistakes are forgiven and flaws are candidly confronted, your resilience expands exponentially.”<sup>70</sup>

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<sup>70</sup> HARRIS, 10% HAPPIER, *supra* note 1, at xii.